

C. Remarks

The claims are 1-7, with claims 1, 3 and 6 being independent. Claims 1 and 6 have been amended for clarification. Support for this amendment may be found throughout the specification, for example, at page 12, lines 16-25, as well as in claim 3. No new matter has been added. Reconsideration of the present claims is expressly requested.

Applicants and their undersigned attorney would like to thank the Examiner for the courtesies extended during the telephonic interview conducted on December 9, 2008. As noted in the Examiner's Interview Summary dated December 15, 2008, Applicants' attorney pointed out that in accordance with the present invention, the electrolyte membrane precursor composition is applied onto the catalyst layer before this composition is converted into a polymer electrolyte membrane by polymerization. To the contrary, Morishima, at paragraph [0049], teaches that the catalyst layer can be coated with a solution of an already polymerized substance to join it with an already formed (polymerized) electrolyte membrane.

Applicants also advised the Examiner that the sequence of steps in forming the electrolyte membrane assembly in accordance with the present invention results in a product, which is structurally different from that in the prior art. The combination of already polymerized components, as taught in Morishima, always produces an interface between the electrolyte membrane and the electrolyte components that remain from the solution applied to the catalyst layer. This interface increases the resistance of the cell.

To the contrary, in the present invention, since the precursor composition is applied on the catalyst layer before it is converted into the polymer electrolyte membrane by polymerization, there is no interface between the resulting electrolyte membrane and the parts thereof in and on the catalyst layer. Thus, both the presently claimed electrolyte membrane assembly and the process for its preparation are different from those in the cited art.

The Examiner noted to Applicants' attorney that the product claims, claims 1 and 6, may potentially be interpreted not to require the formation of the polymer electrolyte membrane after the precursor composition has been applied to the catalyst layer. To expedite prosecution, Applicants have amended claims 1 and 6 to clarify that the formation of the polymer electrolyte membrane occurs after the precursor composition has been applied.

Accordingly, Applicants respectfully submit that the cited documents, whether considered separately or in any combination, do not disclose or suggest all of the presently claimed elements.

Wherefore, withdrawal of the outstanding rejections and passage of the application to issue are respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Jason M. Okun/
Jason M. Okun
Attorney for Applicants
Registration No. 48,512

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCIS_WS 2717625v1